

**RFP # CUAMPO 2017-01**

**REQUEST FOR PROPOSALS**

**FOR**

**MOBILE MAPPING AND FEATURE EXTRACTION**

**FOR**

**CITY OF CLEVELAND, TN**

**REQUESTED BY**

**CITY OF CLEVELAND, TN AND CLEVELAND MPO**

**ISSUE DATE:** Sept. 14, **2017**  
**SUBMITTAL DATE:** ~~Sept. 20~~ ~~XXXXX~~, **2017**  
Oct. 10

Addendum # 1 Issue Date September 21, 2017

*NOTE: Addendum #1 modifies the RFP Schedule of Events and adds page numbers to the RFP*

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## 1. INTRODUCTION AND PROJECT OVERVIEW

The **CITY of CLEVELAND, TENNESSEE**, representing the Cleveland Urban Area Metropolitan Planning Organization, hereinafter referred to as the MPO, intends to secure a contract with a qualified firm for the provision of the following services for the purposes of designing multi-modal transportation infrastructure improvements and other transportation improvements within the City of Cleveland:

- **Design Grade Mobile Mapping data & Calibration**
- **1' Contour Datasets & 20 Scale Feature Extraction**

Qualified firms are invited to submit proposals for the aforementioned services in accordance with the terms and provisions of this Request for Proposals (RFP). Through this RFP the MPO seeks to employ the best services at the most favorable, competitive prices and to give all qualified businesses, including disadvantaged business enterprises, businesses that are owned by minorities, women, persons with a disability, and other small business enterprises, an opportunity to do business with the MPO as contractors and sub-contractors.

The MPO, in coordination with the Tennessee Department of Transportation (TDOT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA), is responsible for transportation planning for the Cleveland Urbanized Area under the directives and policies of the U.S. Department of Transportation.

## 2. PROJECT AREAS AND SCOPE OF WORK FOR TECHNICAL PROPOSAL

### 2.1. Definition of Project Areas

There are eight (8) Project routes defined in this RFP. The first five (5) routes are intended to be funded in part with TDOT Section 5303 funds. The last three (3) routes are intended to be funded using local funds only. The attached map in Exhibit A describes the routes visually.

Adkisson Dr (Norman Chapel Rd to Paul Huff Pkwy)

Georgetown Rd (Harrison Pike to 25<sup>th</sup> St)

Peerless Rd (Georgetown Road to Clingan Ridge Dr)

Dooley St/Gaut St.NE (Wildwood Ave to 6<sup>th</sup> St NE)

Inman St (Highland Ave to East St)

Peerless Road (South Approach at Paul Huff Pkwy)

20<sup>th</sup> Street NE (Shady Lane to 700' east of Old Tasso Rd)

Michigan Avenue Road (Stuart Road to Benton Pike)

## 2.2. Technical Proposal Scope of Work, Specifications, and Deliverables

This section of the RFP describes the work to be performed and delivered for the above-described project areas. Firms responding to the RFP shall submit a technical proposal that encompasses the elements described in this section.

### OVERVIEW OF WORK TO BE PERFORMED

As indicated above, the City and the MPO intend to acquire for the specified project areas:

- **Design Grade Mobile Mapping data & Calibration**
- **1' Contour Datasets & 20 Scale Feature Extraction**

All mapping products shall be delivered in **Tennessee State Plane Coordinates, NAD83 Datum, (Linear Unit: Foot\_US)**. Vertical datum shall be **North American Vertical Datum (NAVD) 1988 Adjustment**.

The scope of work for this project will include:

- Acquisition of new, mobile LiDAR, control, LiDAR processing and feature extraction
- Acquisition of new LiDAR data and production of new digital elevation datasets to include:
  - LiDAR point cloud (LAS 1.3 format)
  - Bare Earth LiDAR point cloud (LAS 1.3 format)
  - Digital Terrain Model (DTM)
  - Topographic Contour Lines at a 1 foot contour interval
  - 1"=20' scale planimetric features extracted from LiDAR

New, mobile LiDAR shall be captured for each of the specified project areas. Corridor width for the acquisitions will be 125' (centered on the route) and 100' back at each intersection. The mobile LiDAR data must be captured at a density and accuracy sufficient for producing planimetric mapping and elevation data meeting the horizontal and vertical accuracy of 0.1'.

New digital elevation datasets and planimetric features shall be delivered in accordance with TDOT CADD standards in formats compatible with Bentley software products.

The project shall consist of producing and delivering all specified Mobile LiDAR Products and Digital Elevation Data in the format specified by this RFP, and furnishing all documentation necessary to satisfy the requirements of the RFP. Additionally, all tools, materials, supervision, and labor necessary to make the final products usable by the City, shall be furnished by the responding firm. Completion of the project shall consist of, but not be limited to, the following items:

- Delivery schedule
- Delivery of all documentation described in the approved submission
- Delivery of all LiDAR products, the DTM, and 1' contours in specified formats
- Delivery of all planimetric products in the specified format
- Provision of a certification of product accuracy for all products furnished. The statement should specifically warrant that the delivered products are sufficient to be used for the intended purposes stated earlier.

### MOBILE LIDAR

The field collection will utilize ground based Mobile LiDAR. The collection must be completed with a fully integrated mobile LiDAR system. At a minimum the Mobile LiDAR unit must be capable of collecting engineering grade data at an accuracy meeting or exceeding a Horizontal and Vertical accuracy of 0.1' specified in the RFP.

Prior to collection the consultant will develop a field collection work plan for approval. The work plan will detail:

- Routes to be covered
- Data acquisition plan, including proposed drive paths for each route and base station location
- Control layout
- Times and dates targeted for collection
- Collection specifications
- Mobile LiDAR Unit Calibration report(s)
- Quality Control and Quality Assurance Measures to be employed for field collection

### Collection Requirements:

- LiDAR Acquisition must be collected with coupled IMU / GNSS data for trajectory processing.
- GPS GNSS Data must be RTK processed against a base station or CORS station
- The baseline length must not exceed 5 miles
- The resulting trajectory solution must result from the combination of a forward and reverse processing solution.
- Multiple passes must be employed in areas where obstructions occur due to traffic, if any.
- Must be completed when pavement is dry and not obscured.
- Must be completed at or near traffic speeds to avoid impeding traffic while ensuring adequate spacing from surrounding traffic to avoid obstructions.

### LiDAR Point Cloud Classifications:

Class 2 – Default



Class 2 – Ground  
Class 8 – Keypoints  
Class 9 – Water  
Class 15 - Breaklines

### DIGITAL TERRAIN MODEL (DTM)

A Digital Terrain Model DTM (bare earth surface) shall be produced to support the creation of the 1 foot topographic contour lines.

The DTM shall consist of LiDAR “model key” data points supplemented with breaklines at all significant terrain breaks as may be needed to support generation of one foot (1') contours. All hydrography lines, bridges, road and parking lot edges, curbing, and any other significant feature causing an abrupt change in the terrain, will be compiled as terrain breaks

The DTM shall be produced to support generation of contours at a one foot (1') interval for the entire Project Area. The topographical elevation requirements for well-defined points shall meet or exceed  $\pm 0.1'$  for topographic feature points and DTM elevation points. The delivered DTM shall be the same surface utilized in the generation of the 1' contours

The DTM deliverable shall be delivered in MicroStation and InRoads/GeoPAK format and shall consist of “Model Key” points from the LiDAR Point Cloud represented as a cells or zero length lines, and supplemental breaklines represented as a line strings. All features in the DTM shall be referenced horizontally to the Tennessee State Plane Coordinate System, NAD83, (Linear Unit: US Foot). Vertical values shall be referenced to the North American Vertical Datum (NAVD) 1988 Adjustment, GEOID 12B.

Topographic contour lines shall be generated from the DTM and shall be delivered in MicroStation format as a seamless layer of 1 foot contours. Contour lines should be smoothed cartographic curves which are continuous, pass through buildings, and reflect the terrain under bridges and overpasses.

Standard photogrammetric practices will be followed in placing spot elevations at water levels on lakes, reservoirs, and ponds; on ridgelines; in saddles; in depressions; at intersections of principal streets and highways; and on bridge surfaces and other locations that will aid in describing or clarifying topographic information. Spot elevations shall be included, on the road centerline, at all visible pipe locations.

The contour lines shall not loop, repeat, contain gaps or broken segments, or intersect other contour lines. All contour lines must be spatially consistent in the elevation they are intended to represent.

In addition, the vendor shall:

- Describe the process for calculating and smoothing the contours
- Describe the quality control processes used

### PLANIMETRIC FEATURES

Mobile LiDAR data will be used to collect planimetric features within the project corridor associated with each of the specified areas. Planimetric features will include features visible in the Mobile LiDAR dataset as defined in the Planimetric Feature List below. Features with (DTM) following will be collected as planimetrics, and will also be used in the generation of the DTM as breaklines. In addition to these features, collect additional breaklines (such as crown of road) where necessary to accurately reflect the topography in the corridor.

Planimetric Feature List to include but not limited to:

#### Transportation Features

- Lane Lines (DTM)
- Edge of Pavement (DTM)
- Top and Bottom of Curb (DTM)
- Sidewalks (DTM)
- Driveways (DTM)
- Parking (DTM)
- Guardrails
- Traffic Signage
- Signal Lights
- Bridges

#### Building Fronts

#### Fences

#### Drainage (DTM)

#### Above Ground Utilities

- Poles
- Overhead Line Crossings (Low Wire)
- Manholes
- Fire Hydrants
- Catch Basins
- Vegetation

Final planimetric data will be delivered in MicroStation using TDOT CADD Mapping standards. All data will be delivered as 3D data.

Unless otherwise specified, the vendor shall provide two (2) final copies of all digital data. All final digital elevation data sets and associated data shall include complete and accurate metadata. This requirement is an integral part of the data deliveries.

- Digital Elevation Data (each route)
  - LiDAR – LAS Version 1.3 point cloud
  - LiDAR – Bare Earth - LAS Version 1.3 point cloud
  - DTM (bare earth surface) – Mass point file(s) and breakline file(s) in MicroStation format, capable of generating 1 foot contours in all areas
  - Topographic contour lines and spots – MicroStation file of 1 foot contour lines in all areas with every index contour labeled with elevation value and spot elevations (displayed to a tenth of a foot).
  - Planimetric features - MicroStation file in TDOT symbology at 1"=20' scale

### PROPOSED SCHEDULE

The vendor shall propose a schedule that will achieve all of the objectives outlined in this RFP. The schedule shall include all phases of the project and shall clearly indicate task/deliverable dependencies within or between phases. Significant milestones and delivery dates shall also be indicated. The schedule should be realistic and not over promise on milestones or delivery dates.

**The City expects this project to be completed 90 days from notice to proceed.**

*Charges for work on the first five roadway sections need to be incurred by 12/31/2017.*

### **3. SUMMARY OF TASKS**

#### **3.1. Project Mobilization**

Project mobilization is expected to include the vendor's marshaling of resources necessary to carry out each work element: Mobile LIDAR Data Acquisition; Digital Elevation Data Set, DTM, and 1' Contours; Digital Planimetric Feature Extraction; and preparation and delivery of Final Digital Data Sets. Mobilization will also the development of a project work schedule that satisfies the requirement of the RFP and the development of an approved work plan for the field collection and processing of mobile LIDAR data.

#### **3.2. Mobile LIDAR Data Acquisition**

Collection of required mobile LIDAR data for the specified project areas in accordance with the approved work plan in a manner that meets all of the requirements and specifications of this RFP.

### 3.3. Digital Elevation Data Set, DTM, and 1' Contours

Production of a Digital Terrain Model DTM (bare earth surface) with all the specified data features supporting the creation of the 1 foot topographic contour lines which are also to be produced for the specified project areas in a manner otherwise consistent with the requirements of this RFP.

### 3.4. Digital Planimetric Feature Extraction

Mobile LiDAR data will be used to collect a range of planimetric features within the project corridor associated with each of the specified areas. Some features will be used as “break lines” within the DTM for the establishment of 1' contours. Planimetric feature data is to be processed and presented in a manner otherwise consistent with this RFP.

### 3.5. Final Digital Data Sets

Preparation and delivery of all final digital data sets encompassed by the project for each of the specified areas in accordance with the requirements of this RFP.

## 4. DELIVERABLES

Deliverables are discussed more completely within the context of the technical proposal scope of work and specifications in Section 2.2 above. They are summarized here in the following list:

- Project work schedule
- Mobile LIDAR data collection work plan
- Digital Elevation Data, including required metadata (each specified project area)
  - LiDAR – LAS Version 1.3 point cloud
  - LiDAR – Bare Earth - LAS Version 1.3 point cloud
  - DTM (bare earth surface) – Mass point file(s) and breakline file(s) in MicroStation format, capable of generating 1 foot contours in all areas
  - Topographic contour lines and spots – MicroStation file of 1 foot contour lines in all areas with every index contour labeled with elevation value and spot elevations (displayed to a tenth of a foot).
  - Planimetric features - MicroStation file in TDOT symbology at 1"=20' scale

## 5. RFP SEQUENCE OF EVENTS

The Schedule of Events, shown in the following figure, represents the MPO's best estimate of the schedule that will be followed. Unless otherwise specified, the time of day for the following events will be between 8:00 a.m. and 5:00 p.m., EDT.

This schedule is intended as a guideline for the required tasks for proposal selection and contract award. Management requirements and other factors may cause certain

events to vary somewhat from the original dates; however, in **no event shall the deadline** for the proposal submittal be changed unless notification via addendum.

| <b>RFP Schedule of Events</b>                                                                                                                                                                                                     |                      |                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------------|
| <i>Notice: The MPO reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. The MPO will communicate any adjustments to the Schedule of Events following amendment notification procedures.</i> |                      |                                                                                          |
| <b>EVENT</b>                                                                                                                                                                                                                      | <b>TIME</b>          | <b>DATE</b>                                                                              |
| Purchasing Issues RFP                                                                                                                                                                                                             |                      | <del>14th</del> day, September __, 2017                                                  |
| Deadline for Proposers to submit "Questions for Clarification."                                                                                                                                                                   |                      | <del>xxx</del> <del>26th</del> day, September __, 2017                                   |
| All "Questions for Clarification" answered and Addendum issued (unless no questions submitted)                                                                                                                                    |                      | <del>xxx</del> <del>26th</del> <del>29th</del> day, September __, 2017                   |
| <b>Proposal Submittal Deadline</b>                                                                                                                                                                                                | <b>3:00 p.m. EDT</b> | <del>xxx</del> <del>26th</del> <del>10th October</del> day, September __, 2017           |
| Note: the evaluation team may request onsite interviews by prospective proposers if further clarification is needed.                                                                                                              |                      | <del>xxx</del> <del>3rd</del> <del>13th</del> <del>October</del> day, September __, 2017 |
| Proposal Team completes Technical Proposal Evaluations and submits to RFP Coordinator, who calculates technical and cost proposal scores                                                                                          |                      | <del>xxx</del> <del>16th</del> <del>October</del> day, September __, 2017                |
| Final Negotiations and Recommendation for Approval of Contract Award is made to Cleveland City Council                                                                                                                            |                      | <del>xxx</del> <del>19th</del> <del>October</del> day, September __, 2017                |

## 6. PROCEDURE FOR SUBMITTAL

To be considered, Proposers must submit a complete response to this RFP using the following format. Proposals must be signed by an official authorized to bind the Proposer to its provisions in order for the proposal to be considered valid. **Unsigned offers will not be considered.** Proposals must include a statement as to the period during which the proposal remains valid, but for purposes of this RFP, the period must be at least one hundred and twenty (120) days.

### 6.1. Format for Submittal

Technical Proposal Package shall be presented as follows in a separately sealed envelope and the package contents should be printed on 8" x 11" letter sized paper:

1. Proposal Agreement Form, Attachment A, must be signed;
2. Cover letter of understanding of city's requirements and description of services proposed;
3. Company qualifications and past experience;
4. List of Employees to be involved in the project and their qualifications;
5. Technical Approach to Scope of Work described in RFP;
6. Any Notes or deviations;
7. Three References within the past three years;
8. Lobbying Certification, Attachment C, must be signed;
9. Sub-Contracting Plan for Small Business Participation, Attachment F, must be completed;
10. Insurance Checklist, Attachment G, must be completed and signed;
11. General (Insurance) Contract Form, Attachment H, must be signed; and
12. Solicitation Acknowledgement, Attachment K, must be signed.

Please ensure that the Technical Proposal does not contain cost data.

Cost Proposal Package (sealed in separate envelope) will include the Cost Proposal Form, Attachment B, which must be signed.

Each Proposer must submit five (5) copies and one (1) original of the Technical Proposal that shall be enclosed in a sealed envelope plainly identified in the upper left hand corner with the company's complete name and address and include in the lower left hand corner the following statement:

"Technical Proposal in Response to RFP # CUAMPO 2017-01 – Do Not Open."

Each Proposer must submit one (1) original of the Cost Proposal that shall be enclosed in a separate, sealed envelope plainly identified in the upper left hand corner with the company's complete name and address and include in the lower left hand corner the following statement:

“Cost Proposal in Response to RFP # CUAMPO 2017-01 – Do Not Open.”

If the Proposer encloses the separately sealed proposals (as detailed above) in a larger package for mailing, the Proposer must clearly mark in the outermost package:

“Contains Separately Sealed Technical and Cost Proposals for RFP # CUAMPO 2017-01”.

Proposals shall be received at either of the following addresses on or before 3:00 p.m., ~~2017~~ **10th day of October, 2017**:  
~~\_\_\_\_\_ day, September \_\_, 2017:~~

*Mailing Address:*

Ms. Melinda Carroll  
Purchasing Director  
City of Cleveland  
P.O. Box 1519  
Cleveland, TN 37364-1519

*Physical Address:*

Ms. Melinda Carroll,  
Purchasing Director  
City of Cleveland  
City Hall Annex  
180 2<sup>nd</sup> Street NE  
Cleveland, TN 37311

Telephone, electronic or facsimile offers will not be accepted. A list of respondents will be available after the deadline.

## 6.2. Withdrawal of Proposals

Proposals may be withdrawn upon written request received from the Proposer prior to the time fixed for receipt.

### 6.3. Questions Regarding the RFP

Interested Parties must direct all communications regarding this RFP to the following RFP Coordinator, who is the official point of contact for this RFP:

Ms. Melinda Carroll  
Purchasing Director  
City of Cleveland

P.O. Box 1519  
 Cleveland, TN 37364-1519  
 423-472-4551  
[mcarroll@clevelandtn.gov](mailto:mcarroll@clevelandtn.gov)

For “Request for Clarifications” questions regarding the scope of work, please submit written questions via e-mail to David Sheely, PE, Transportation Projects Manager [dsheely@clevelandtn.gov](mailto:dsheely@clevelandtn.gov) with the subject heading of “Request for Clarifications – Mobile LIDAR Project” All questions should be submitted no later than ~~20th day~~ **26th day** September \_\_, 2017, ~~which is one week from the RFP issue date.~~ Requests for Clarifications submitted, if any, will be answered and issued as an Addendum ~~one week~~ **later.**

#### **6.4. Economy of Preparation**

Proposals should be prepared simply and economically, provide a straightforward and complete description of services, qualifications, costs and associated options to meet city’s requirements as outlined in this document. Emphasis should be on completeness and clarity of content.

#### **6.5. Incurred Costs**

Neither the City of Cleveland nor the MPO is not liable for any costs incurred by Proposer prior to issuance of a contract.

### **7. GENERAL REQUIREMENTS AND CONTRACTING INFORMATION**

#### **7.1. RFP Addenda**

Any changes to the specification herein will be brought forward in the form of a written Addendum from the Purchasing Department and will be provided to all interested parties. No oral interpretation or communication will affect or change in any way the information contained herein.

#### **7.2. Acceptance of Proposal Content**

Proposals are to be valid for a minimum period of one hundred and twenty (120) days from date of receipt by the City. The contents of any proposal received shall become contractual obligations upon the execution of a contract by authorized representatives of both the City and the Proposer. The City reserves the right to reject any or all proposals and to waive informalities, irregularities, and technicalities in the proposal process. The City may negotiate separately with any source in the manner necessary to arrive at a contract agreement that is in the best interest of the City.

#### **7.3. Contractor Qualifications**



The consulting firm should have at least five (5) successful years expertise in the work needed to complete the requirements of this contract which are summarized as “Design Grade Mobile Mapping data & Calibration and 1’ Contour Datasets & 20 Scale Feature Extraction”. The contractor will have expertise in the collection of Mobile LIDAR data, the development of Digital Terrain Models, the development of 1’ contours, the extraction of planimetric features, and the creation of data sets needed for the design of transportation improvements from the aforementioned types of work. Experience in using earlier or different technologies to deliver the same and similar types of end products will be considered. The consulting firm’s project team will need to include a Registered Land Surveyor licensed to practice in Tennessee, as well as other persons with relevant experience and expertise.

#### **7.4. Employee Qualifications**

Qualifications of all personnel involved with the project shall be included with the proposal package.

#### **7.5. References**

Bidders shall include a minimum of three (3) references of similar services performed within the last three (3) years. Each reference shall have the company or government entity name, address, contact person and telephone number along with the type of service performed. References will be used to determine past performance if contractor’s history is not known.

Qualification to perform this type of work will be a consideration in the contract award.

#### **7.6. Cancellation**

Either party may cancel the service contract if written notice of intent is given thirty (30) days prior to the cancellation date.

#### **7.7. Insurance**

The Insurance Checklist (including a section for both the Insurance Agent and Contractor to fill out) is found as RFP Attachment G and the General Contract Form is found as RFP Attachment H must be completed and returned with the proposal package. Successful proposer shall provide a Certificate of Insurance relative to the Insurance Checklist prior to contract award. The successful contractor must carry insurance as specified during the length of this contract and must submit a Certificate within five (5) business days from the date of request.

#### **7.8. Requirements for Bids, Request for Proposals and Contracts**

This proposal includes the City's Requirements for Bids, Requests for Proposals and Contracts between the City of Cleveland and other parties attached hereto and set forth herein as if verbatim.

## **7.9. Terms**

The contract will be in the form of a Purchase Order issued by the Purchasing Department for the City of Cleveland. Payment terms are net 30 days after receipt of approved invoices and progress reports. Invoices will include a list of the name, office address staff working on the project working, and an authorization signature from the project manager or other company official certifying the work was completed. Progress reports submitted with each invoice will include information and costs on the task(s) completed.

## **7.10. Rights and Options of the City of Cleveland**

The City reserves the following rights and options:

- Determine those proposers who are most qualified;
- Reject any or all proposals for any reason, at its sole discretion;
- Supplement, amend, or otherwise modify this RFP;
- Cancel this RFP with or without the submission of another RFP;
- Issue additional solicitations for information and proposals, and conduct investigations with respect to the qualifications of each respondent

## **8. EVALUATION PROCESS**

Once the proposals have been received by the City of Cleveland Purchasing Department, reviewed for inclusion of required forms, and deemed "ready for evaluation," they will be forwarded to the MPO RFP Coordinator to start the evaluation process. The RFP Coordinator will review the cost proposals independently from the Evaluation Team. A numerical score will be given to each proposal. The maximum possible score for any proposal will be 100 points, of which a maximum of 80 points will be available for the Technical Proposal and a maximum of 20 points will be available for the Cost Proposal.

### **8.1. Technical Proposal Evaluation**

Evaluation Criteria – Technical Merit and Qualification – 80 Points

The Technical Proposals will be evaluated by a "Proposal Evaluation Team" consisting of representatives from the Cleveland MPO and the City of Cleveland. In the event an evaluation team member is not able to serve due to conflict or availability, an alternate from one of the member agencies will be used.

Team members will evaluate the proposals individually on the criteria described in the figure below considering the maximum number of points available for each criterion.

| <b>Evaluation Criteria</b>                                                                       | <b>Maximum Points</b> |
|--------------------------------------------------------------------------------------------------|-----------------------|
| Grasp of project requirements                                                                    | 15                    |
| Previous experience in the development of work products comparable to those required in this RFP | 15                    |
| Key personnel and qualifications                                                                 | 20                    |
| Technical approach in addressing the “Scope of Work”                                             | 30                    |

## **8.2. Cost Proposal Evaluation**

### **Evaluation Criteria – Cost Proposal – 20 Points**

The Contractor will develop a lump sum cost for completing the project. The Cost Proposal should be separate from the Technical Proposal – no costs estimates are to be included in the Technical Proposal narrative. This is a Request for Proposals and not a bid. In this process the client is not bound to take the lowest cost; however, the cost will make up 20 percent of the overall evaluation score. To calculate the score for the cost proposal, the cost of the proposals will be compared to each proposal submitted. The RFP Coordinator shall use the proposer’s project cost and divide it into the lowest cost of all Cost Proposals. The number will then be multiplied by 20 and rounded to the nearest two decimal places to determine the final Cost Proposal score. This method is a successful and proven method utilized by the State of Tennessee in evaluating costs, therefore the RFP Coordinator will use this accepted method for calculating the “Cost Proposal Score.”

## **9. CONTRACT AWARD PROCESS**

Once the final scores are tabulated (technical scores and cost proposals), the RFP Coordinator will forward the results of the proposal evaluation process back to the Proposal Team, who will consider the results and all pertinent information available to make a recommendation about the contract award. The recommendation is then submitted to the Purchasing Department.

The City Council of the City of Cleveland, acting on behalf of the Cleveland MPO, will grant final approval for the contract award based on the recommendation of the Proposal Team. The City of Cleveland reserves the right to make an award without further discussion of any proposal.

After the City Council’s approval, the RFP Coordinator will issue an Evaluation Notice to identify the selected Proposer. Please note that the Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-

evaluated proposal or any other Proposer. The RFP Coordinator will also make the RFP files available for public inspection after the contract has been awarded.

The selected Proposer must agree to a contract in the form of a Purchase Order issued by the Purchasing Department with the City of Cleveland, which shall include this RFP.

However, the City reserves the right, at its discretion, to add terms and conditions or to revise contract requirements in the City's best interests subsequent to this RFP process, subject to review by TDOT. No such terms and conditions or revision of contract requirements shall materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP process. The Purchasing Department may determine that the Proposer is non-responsive to the terms of this RFP and reject the proposal.

If the City determines that the selected Proposer is non-responsive, the RFP Coordinator will re-calculate scores for each responsive Cost Proposal to determine the new, apparent best-evaluated proposal.

## **10. FURTHER CONTRACT REQUIREMENTS**

### **10.1. Additional Terms and Conditions**

The Proposer will also be required to abide by the following terms and conditions. By signing the Proposal Agreement Form "Attachment A", the Proposer agrees to and acknowledges their understanding of the Scope of Work and agrees to the following terms and conditions:

**10.2. Copyrights.** The Tennessee Department of Transportation may copyright any books, publications, or other copyrightable materials developed in the course of this FHWA funded project. The FHWA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

**10.3. Lobbying.** Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Client, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member

of Congress in connection with its grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all subcontractor of federally appropriated funds shall certify and disclose accordingly.

**10.4. Nondiscrimination.** Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of Contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of discrimination.

**10.5. Maintenance of Records.** Contractor shall maintain documentation for all charges against the Client. The books, records and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit at Contractor's offices, at any reasonable time and upon reasonable notice by the Client or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

**10.6. Suspension and Debarment.** Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to entities who are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 of February 18, 1986 (3 CFR, 1986 Comp., p. 189).

#### **10.7. Clean Air Act & the Federal Water Pollution Control Act.**

**Clean Air** - The Contractor **and subcontractors** agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

**Clean Water** - The Contractor and subcontractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn,

report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

**10.8. Conflicts of Interest.** Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to entities who are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 or February 18, 1986 (3CFR, 1986 Comp., p 189).

**10.9. Environmental Tobacco Smoke.** Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this agreement.

**10.10. Licensure.** The Contractor and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, State, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

#### **10.11. Notations and Statements.**

All reports, maps, and other documents prepared as a part of this agreement, exclusive of documents for internal use only by parties hereto, and financed with FHWA "PL" funds shall carry the following notation on the front cover or title page:

*This report was prepared in cooperation with the U. S. Department of Transportation, Federal Highway Administration, and the Tennessee Department of Transportation.*

All notices, informational pamphlets, press releases, research reports, signs and similar notices prepared and released by the Client and Contractor shall include the statement, "This project is funded (in part) under an agreement with the State of Tennessee, Department of Transportation."

**10.12. Public Accountability.** If Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this agreement involves the provision of services to citizens by Contractor on behalf of the Tennessee Department of Transportation, Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive these supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

**10.13. Termination for Cause.** If the Contractor fails to properly perform its obligations under this agreement in a timely or proper manner, or if the Contractor violates any terms of this agreement, the Client shall have the right to immediately terminate this agreement by giving written notice and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the Client for damages sustained by virtue of any branch of this agreement by the Contractor.

**10.14. Termination for Convenience.** This Agreement may be terminated by either party by given written notice to the other, at least ten (10) days before the effective date of termination. Should either party exercise this provision, Contractor shall be entitled to reimbursement for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Client be liable to Contractor for any service which has not been rendered. The final decision as to the amount, for the Client is liable, shall be determined by the Client. In the event of disagreement, Contractor may file a claim with the Purchasing Director in order to seek redress.

**10.15. Use & Ownership of Documents.**

All documents, including, but not limited to, drawings, specifications, maps and other such instruments of service prepared or obtained under the terms of this Agreement shall be delivered to the Client and become the property of the Client.

All documents which are prepared by the Contractor and form part of its services, shall, upon completion become the property of the Client and shall be delivered to the Client. Any use except for the specific purpose intended by this Agreement will be at the user's sole risk and without liability or legal exposure to Client.

All information owned, possessed or used by Contractor which is communicated to, learned, developed or otherwise acquired by the Contractor in the performance of the services for the Client, which is not generally known to the public, shall be confidential and Contractor shall not, beginning on the date of first association or communication between the Client and Contractor and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Contractor's own benefit or the benefit of another, any such confidential information unless required by law.

**10.16. Successors and Assigns.** This Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto and upon their respective heirs,



executors, administrators, successors and assigns. Contractor shall not assign, sublet, or transfer their interests in this Agreement without the written consent of the Client.

**10.17. Disputes.** It is agreed by both parties that all unsettled claims, counterclaims, disputes, or other matters in question arising out of or related to this Agreement shall first be attempted to be resolved by non-binding mediation. This provision can be waived by the mutual consent of the parties, or by either party if its right would be irrevocably prejudiced by a delay in initiating a lawsuit.

**10.18. Extent of Agreement.** This Agreement constitutes the entire and integrated agreement between the Client and Contractor and no other written or oral understanding shall constitute part of this Agreement.

## **11. FEDERAL TRANSIT ADMINISTRATION CLAUSES**

The following clauses from the TDOT Multimodal Transportation Division are in addition to the clauses required by the TDOT Long Range Planning Division, as this procurement also includes Section 5303 funding from the Federal Transit Administration (FTA):

### **11.1. Fly America Requirements**

#### **49 U.S.C. § 40118; 41 CFR Part 301-10; and 48 C.F.R. part 47.4**

**a) Definitions.** As used in this clause “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. “United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

**b)** When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.



c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

### **Statement of Unavailability of U.S.-Flag Air Carriers**

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403.

e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

### **11.2. Energy Conservation.**

#### **42 U.S.C. 6321 et seq. ; 49 CFR Part 622, subpart C**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The Contractor also agrees to include any applicable requirements in each subcontract, issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA.

### **11.3. Lobbying.**

#### **31 U.S.C. § 1352; 2 C.F.R. § 200.450; 2 C.F.R. part 200 appendix II (J); and 49 C.F.R. part 20**

The Contractor certifies on Attachment C, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure of Lobbying Activities," (attached), in accordance with its completion instructions (attached).

(3) The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The certification (Attachment C) is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

#### **11.4. Access to Third Party Contract Records.**

##### **49 U.S.C. § 5325(g); 2 C.F.R. § 200.333; and 49 C.F.R. part 633**

The following access to records requirements apply to this Contract and Sub-Contracts issued pursuant to this Contract:

**a) Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

**b) Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) A-4 years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of

this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

**c) Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

**d) Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

## **11.5. Changes to Federal Requirements.**

### **49 CFR Part 18**

Contractor shall at all times comply with all applicable Federal laws, regulations and guidance, in addition to FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the [Master Agreement](#) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

The Changes to Federal Requirements flows down to subcontracts, issued pursuant to this contract, appropriately to each applicable changed requirement.

## **11.6. Clean Air Act and Federal Water Pollution Control Act.**

### **42 U.S.C. §§ 7401-7671q; 33 U.S.C. §§ 1251-1387; and 2 C.F.R. part 200, Appendix II (G)**

The Contractor agrees: 1) It will not use any violating facilities; 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;" 3) It will report violations of use of prohibited facilities to FTA; and 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

## **11.7. No Obligation by the Federal Government**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **11.8. False or Fraudulent Statements or Claims.**

**49 U.S.C. § 5323(l) (1); 31 U.S.C. §§ 3801-3812; 18 U.S.C. § 1001; and 49 C.F.R. part 31**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **11.9. Termination.**

**49 U.S.C. Part 18**

**a. Termination for Convenience (General Provision)** The City of Cleveland / Cleveland MPO may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed

up to the time of termination. The Contractor shall promptly submit its termination claim to the City of Cleveland / Cleveland MPO to be paid the Contractor. If the Contractor has any property in its possession belonging to the City of Cleveland / Cleveland MPO, the Contractor will account for the same, and dispose of it in the manner the City of Cleveland / Cleveland MPO directs.

**b. Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City of Cleveland / Cleveland MPO may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the City of Cleveland / Cleveland MPO that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City of Cleveland / Cleveland MPO, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**c. Opportunity to Cure (General Provision)** The City of Cleveland / Cleveland MPO in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to the City of Cleveland / Cleveland MPO 's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from the City of Cleveland / Cleveland MPO setting forth the nature of said breach or default, the City of Cleveland / Cleveland MPO shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City of Cleveland / Cleveland MPO from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**d. Waiver of Remedies for any Breach** In the event that the City of Cleveland / Cleveland MPO elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the City of Cleveland / Cleveland MPO shall not limit the City of Cleveland / Cleveland MPO 's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**e. Termination for Convenience or Default (Architect and Engineering)** The City of Cleveland / Cleveland MPO may terminate this contract in whole or in part, for the City

of Cleveland / Cleveland MPO convenience or because of the failure of the Contractor to fulfill the contract obligations. The City of Cleveland / Cleveland MPO shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the City of Cleveland / Cleveland MPO, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the City of Cleveland / Cleveland MPO may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the City of Cleveland / Cleveland MPO.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Cleveland / Cleveland MPO.

The Contractor also agrees to include these requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA, in which the prime contract exceeds \$10,000.

#### **11.10. Suspension and Debarment.**

**2 C.F.R. part 180; 2 C.F.R part 1200; 2 C.F.R. § 200.213; 2 C.F.R. part 200 Appendix II (I); Executive Order 12549; and Executive Order 12689**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

**By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:**

The certification in this clause is a material representation of fact relied upon by the City of Cleveland / Cleveland MPO. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the

City of Cleveland / Cleveland MPO, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. The bidder or proposer agrees to comply with Federal debarment and suspension requirements and to review records for active exclusions at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR 1200.

#### **11.11. Civil Rights.**

**29 U.S.C. § 621-624; 42 U.S.C. § 2000; 42 U.S.C. § 6102; 42 U.S.C. § 12112; 42 U.S.C. § 12132; 49 U.S.C. § 5332; 29 CFR Part 1630; 41 CFR Parts 60 et seq.; and 49 CFR Part 21**

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, U.S. DOT regulations 49 C.F.R. Part 21, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without



regard to their race, color, religion, national origin, age, disability, sexual origin, sexual orientation, gender identity, or status as a parent. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 621-634 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **11.12. Resolution of Disputes, Breaches, or Other Litigation.**

### **49 CFR Part 18**

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City of Cleveland / Cleveland MPO's Coordinator. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the MPO Coordinator. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the MPO Coordinator shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by the City of Cleveland / Cleveland MPO, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall



be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Cleveland / Cleveland MPO and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Cleveland / Cleveland MPO is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Cleveland / Cleveland MPO, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

The Contractor also agrees to include these requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA, in which the prime contract exceeds \$100,000.

### **11.13. Disadvantaged Business Enterprises.**

#### **49 CFR Part 26**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A contract goal has not been established for this procurement.

b. The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Cleveland MPO deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract (regardless of whether or not the subcontractor is a DBE) for satisfactory

performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Cleveland on behalf of Cleveland MPO (a department of the City of Cleveland).

Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Cleveland on behalf of Cleveland MPO.

Cleveland MPO requires the contractor to submit a completed "Prompt Payment Certification" (Attachment E) no later than 30 days after the contractor's receipt of payment from the City, as verification of the contractor's payment to its subcontractors for work related to this contract.

In addition, the contractor may not hold retainage from its subcontractors.

**This clause applies to both DBE and non-DBE subcontracts.**

#### **11.14. Incorporation of Federal Transit Administration (FTA) Terms.**

**49 U.S.C. Chapter 53; 49 C.F.R. 18.36 or 49 C.F.R. 19.40 – 19.48; and FTA Circular "Third Party Contracting Guidance"**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular "Third Party Contracting Guidance," 49 U.S.C. chapter 53, and 49 C.F.R. 18.36 or 49 C.F.R. 19.40 – 19.48, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Cleveland / Cleveland MPO's requests which would cause the City of Cleveland / Cleveland MPO to be in violation of the FTA terms and conditions.

The Contractor also agrees to include any applicable requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA.

#### **11.15. Small Business Participation.**

**49 CFR Part 26.39; FTA C "Third Party Contracting Guidance"**

**This requirement applies to prime contractors of non-vehicle contracts who do not meet the definition of a small business, as provided in paragraph "c" below.**

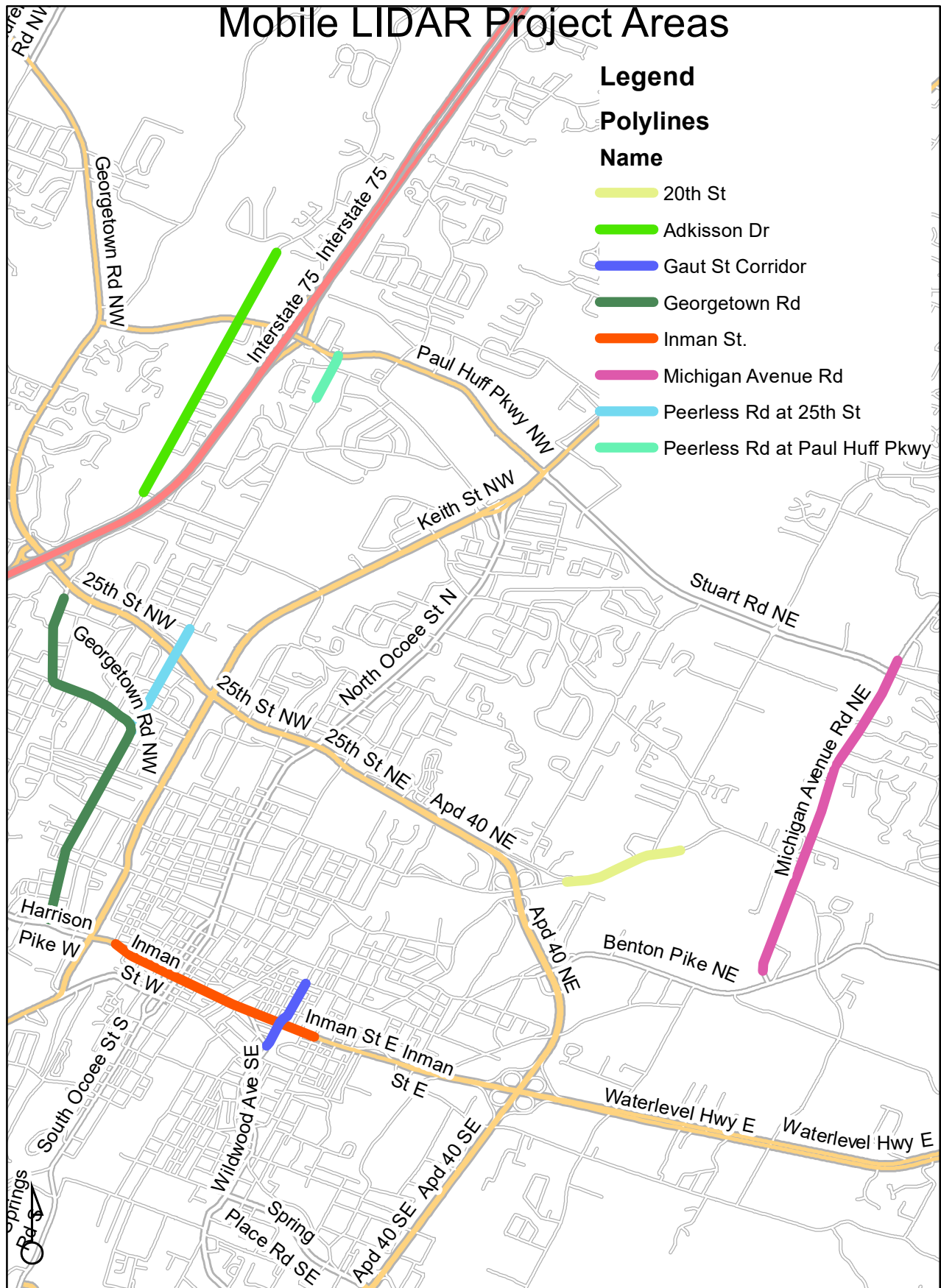
a. Bidders/proposers are required to specify elements of the contract or specific subcontracts that are of a size that small businesses, including but not limited to DBEs, can reasonably perform. Bidders/proposers must complete and include with bids/proposals the Attachment F - "Sub-Contracting Plan for Small Business Participation."

b. The successful bidder/offeror will be required to promptly notify Cleveland MPO, throughout the period of contract performance, if any planned small business participation is subsequently substituted with large businesses, and submit "Evidence of Good Faith Efforts" documentation (page 2 of the Sub-Contracting Plan for Small Business Participation form).

c. A small business is defined as a business which:

- Is currently certified by a U.S. DOT-approved UCP as being on the UCP's DBE listing;
- Is certified by the U.S. Small Business Administration as a small business; or
- Provides sufficient financial documentation to Cleveland MPO with bid/proposal to confirm that the business is eligible to be defined as a small business based on economic criteria consistent with those of 49 CFR Parts 26.65 and 26.67.

## Exhibit A



## Attachment A

# Proposal Agreement Form

### REQUEST FOR PROPOSALS FOR MOBILE MAPPING AND FEATURE EXTRACTION

The undersigned hereby declares that no person or party other than the undersigned have any interest whatsoever in this proposal, that it is without any connection or collusion with any person or persons making or having made any proposal for the same product/service and without any previous understanding with such person or persons as to relative prices, obviating competition, and that it is made in good faith.

The undersigned also declares that they have carefully examined the specifications relating to the service herein referred to, and fully understands the nature of the obligations proposed.

The undersigned agrees to provide the **MOBILE MAPPING AND FEATURE EXTRACTION** for the City of Cleveland/Cleveland MPO according to the City's terms and conditions.

BY: \_\_\_\_\_  
Company

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FACSIMILE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**This form must be signed.**

## Attachment B

# COST PROPOSAL FORM

### MOBILE MAPPING AND FEATURE EXTRACTION

Proposer Name: \_\_\_\_\_

The proposed cost, detailed below, shall indicate the proposed price for providing the entire scope of work including all services as defined in the Technical Proposal section of this RFP. The proposed cost and the Technical Proposal associated with this cost shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the City of Cleveland. **Please ensure the Cost Proposal form is not included with the Technical Proposal.** The evaluation of the Cost Proposal will be based on the total cost of the project.

| COST ITEM DESCRIPTION                                                   | ESTIMATED HOURS | TOTAL TASK COST |
|-------------------------------------------------------------------------|-----------------|-----------------|
|                                                                         |                 |                 |
| <b>Project Mobilization</b>                                             |                 |                 |
|                                                                         |                 |                 |
| <b>Route 1: Adkisson Dr<br/>(Norman Chapel Rd to Paul Huff Pkwy)</b>    |                 |                 |
| Mobile LIDAR Data Acquisition                                           |                 |                 |
| Digital Elevation Data Set, DTM and 1' Contours                         |                 |                 |
| Digital Planimetric Feature Extraction                                  |                 |                 |
| Final Digital Data Sets                                                 |                 |                 |
| <b>Route 1 Total</b>                                                    |                 |                 |
|                                                                         |                 |                 |
| <b>Route 2: Georgetown Rd<br/>(Harrison Pike to 25<sup>th</sup> St)</b> |                 |                 |
| Mobile LIDAR Data Acquisition                                           |                 |                 |
| Digital Elevation Data Set, DTM and 1' Contours                         |                 |                 |
| Digital Planimetric Feature Extraction                                  |                 |                 |
| Final Digital Data Sets                                                 |                 |                 |
| <b>Route 2 Total</b>                                                    |                 |                 |
|                                                                         |                 |                 |

| COST ITEM DESCRIPTION                                                           | ESTIMATED HOURS | TOTAL TASK COST |
|---------------------------------------------------------------------------------|-----------------|-----------------|
| <b>Route 3: Peerless Rd<br/>(Georgetown Road to<br/>Clingan Ridge Dr)</b>       |                 |                 |
| Mobile LIDAR Data Acquisition                                                   |                 |                 |
| Digital Elevation Data Set, DTM<br>and 1' Contours                              |                 |                 |
| Digital Planimetric Feature<br>Extraction                                       |                 |                 |
| Final Digital Data Sets                                                         |                 |                 |
| <b>Route 3 Total</b>                                                            |                 |                 |
|                                                                                 |                 |                 |
| <b>Route 4: Dooley St/Gaut St.NE<br/>(Wildwood Ave to 6<sup>th</sup> St NE)</b> |                 |                 |
| Mobile LIDAR Data Acquisition                                                   |                 |                 |
| Digital Elevation Data Set, DTM<br>and 1' Contours                              |                 |                 |
| Digital Planimetric Feature<br>Extraction                                       |                 |                 |
| Final Digital Data Sets                                                         |                 |                 |
| <b>Route 4 Total</b>                                                            |                 |                 |
|                                                                                 |                 |                 |
| <b>Route 5: Inman St (Highland<br/>Ave to East St)</b>                          |                 |                 |
| Mobile LIDAR Data Acquisition                                                   |                 |                 |
| Digital Elevation Data Set, DTM<br>and 1' Contours                              |                 |                 |
| Digital Planimetric Feature<br>Extraction                                       |                 |                 |
| Final Digital Data Sets                                                         |                 |                 |
| <b>Route 5 Total</b>                                                            |                 |                 |
|                                                                                 |                 |                 |
| <b>Route 6: Peerless Road (South<br/>Approach at Paul Huff Pkwy)</b>            |                 |                 |
| Mobile LIDAR Data Acquisition                                                   |                 |                 |
| Digital Elevation Data Set, DTM<br>and 1' Contours                              |                 |                 |
| Digital Planimetric Feature<br>Extraction                                       |                 |                 |
| Final Digital Data Sets                                                         |                 |                 |
| <b>Route 6 Total</b>                                                            |                 |                 |

| <b>COST ITEM DESCRIPTION</b>                                                         | <b>ESTIMATED HOURS</b> | <b>TOTAL TASK COST</b> |
|--------------------------------------------------------------------------------------|------------------------|------------------------|
| <b>Route 7:</b> 20 <sup>th</sup> Street NE (Shady Lane to 700' east of Old Tasso Rd) |                        |                        |
| Mobile LIDAR Data Acquisition                                                        |                        |                        |
| Digital Elevation Data Set, DTM and 1' Contours                                      |                        |                        |
| Digital Planimetric Feature Extraction                                               |                        |                        |
| Final Digital Data Sets                                                              |                        |                        |
| <b>Route 7 Total</b>                                                                 |                        |                        |
|                                                                                      |                        |                        |
| <b>Route 8:</b> Michigan Avenue Road (Stuart Road to Benton Pike)                    |                        |                        |
| Mobile LIDAR Data Acquisition                                                        |                        |                        |
| Digital Elevation Data Set, DTM and 1' Contours                                      |                        |                        |
| Digital Planimetric Feature Extraction                                               |                        |                        |
| Final Digital Data Sets                                                              |                        |                        |
| <b>Route 8 Total</b>                                                                 |                        |                        |
|                                                                                      |                        |                        |
| <b>PROJECT TOTAL</b>                                                                 |                        |                        |
|                                                                                      |                        |                        |

### Cost Proposal Score Calculation

The scorer shall use the project cost above and divide it into the lowest project cost of all Cost Proposals. This number will be then multiplied by 20 and rounded to the nearest two decimal places to determine the final Cost Proposal score.

Final Score for Cost Proposal (*Maximum Score: 20 points*) Score: \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**This form must be signed.**



## Attachment C

### LOBBYING

31 U.S.C. § 1352

2 C.F.R. § 200.450

2 C.F.R. part 200 appendix II (J)

49 C.F.R. part 20

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure of Lobbying Activities," (attached), in accordance with its completion instructions (attached).

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, *apply* to this certification and disclosure, if any.

In addition, during the contract period, at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such reporting entity in connection with such award, contractors must file an updated Standard Form LLL noting such material change.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**This form must be signed.**

## Attachment D

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB  
0348-0046

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                   |                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>1. * Type of Federal Action:</b><br><input type="checkbox"/> a. contract<br><input type="checkbox"/> b. grant<br><input type="checkbox"/> c. cooperative agreement<br><input type="checkbox"/> d. loan<br><input type="checkbox"/> e. loan guarantee<br><input type="checkbox"/> f. loan insurance                                                                                                                                                                                                                                                                                                                                 | <b>2. * Status of Federal Action:</b><br><input type="checkbox"/> a. bid/offer/application<br><input type="checkbox"/> b. initial award<br><input type="checkbox"/> c. post-award | <b>3. * Report Type:</b><br><input type="checkbox"/> a. initial filing<br><input type="checkbox"/> b. material change |
| <b>4. Name and Address of Reporting Entity:</b><br><input type="checkbox"/> Prime <input type="checkbox"/> SubAwardee<br>* Name <input style="width: 300px;" type="text"/><br>* Street 1 <input style="width: 250px;" type="text"/> Street 2 <input style="width: 250px;" type="text"/><br>* City <input style="width: 150px;" type="text"/> State <input style="width: 150px;" type="text"/> Zip <input style="width: 50px;" type="text"/><br>Congressional District, if known: <input style="width: 150px;" type="text"/>                                                                                                           |                                                                                                                                                                                   |                                                                                                                       |
| <b>5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:</b><br><div style="height: 80px; border: 1px solid black;"></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                   |                                                                                                                       |
| <b>6. * Federal Department/Agency:</b><br><input style="width: 300px;" type="text"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>7. * Federal Program Name/Description:</b><br><input style="width: 300px;" type="text"/><br>CFDA Number, if applicable: <input style="width: 150px;" type="text"/>             |                                                                                                                       |
| <b>8. Federal Action Number, if known:</b><br><input style="width: 300px;" type="text"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>9. Award Amount, if known:</b><br>\$ <input style="width: 100px;" type="text"/>                                                                                                |                                                                                                                       |
| <b>10. a. Name and Address of Lobbying Registrant:</b><br>Prefix <input style="width: 50px;" type="text"/> * First Name <input style="width: 150px;" type="text"/> Middle Name <input style="width: 100px;" type="text"/><br>* Last Name <input style="width: 200px;" type="text"/> Suffix <input style="width: 50px;" type="text"/><br>* Street 1 <input style="width: 250px;" type="text"/> Street 2 <input style="width: 250px;" type="text"/><br>* City <input style="width: 150px;" type="text"/> State <input style="width: 150px;" type="text"/> Zip <input style="width: 50px;" type="text"/>                                 |                                                                                                                                                                                   |                                                                                                                       |
| <b>b. Individual Performing Services</b> (including address if different from No. 10a)<br>Prefix <input style="width: 50px;" type="text"/> * First Name <input style="width: 150px;" type="text"/> Middle Name <input style="width: 100px;" type="text"/><br>* Last Name <input style="width: 200px;" type="text"/> Suffix <input style="width: 50px;" type="text"/><br>* Street 1 <input style="width: 250px;" type="text"/> Street 2 <input style="width: 250px;" type="text"/><br>* City <input style="width: 150px;" type="text"/> State <input style="width: 150px;" type="text"/> Zip <input style="width: 50px;" type="text"/> |                                                                                                                                                                                   |                                                                                                                       |
| <b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the filer above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.             |                                                                                                                                                                                   |                                                                                                                       |
| * Signature: <input style="width: 200px;" type="text"/> Completed on submission to Grants.gov<br>* Name: Prefix <input style="width: 50px;" type="text"/> * First Name <input style="width: 150px;" type="text"/> Middle Name <input style="width: 100px;" type="text"/><br>* Last Name <input style="width: 200px;" type="text"/> Suffix <input style="width: 50px;" type="text"/><br>Title: <input style="width: 150px;" type="text"/> Telephone No.: <input style="width: 100px;" type="text"/> Date: <input style="width: 150px;" type="text"/> Completed on submission to Grants.gov                                             |                                                                                                                                                                                   |                                                                                                                       |
| <b>Federal Use Only:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                   | Authorized for Local Reproduction<br>Standard Form - LLL (Rev. 7-97)                                                  |

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## Attachment E

# **DISADVANTAGED BUSINESS ENTERPRISE**

# **(DBE) 49 CFR Part 26**

### FOR ALL SUBCONTRACTS ISSUED PURSUANT to PRIMARY CONTRACT

#### Contractor's Certification of Prompt Payment

As verification for the Disadvantaged Business Enterprises contract clause, subsection "d", Cleveland MPO requires Contractors to submit the following certification to Cleveland MPO after it has issued a payment to all subcontractors and suppliers, **regardless of whether or not the subcontractor/supplier is a DBE**, no later than 30 days after the contractor's receipt of payment for that work from the City of Cleveland on behalf of Cleveland MPO (a department of the City of the City of Cleveland).

#### **Certification**

"I certify that no retainage has been held on the subcontractor or supplier and the subcontractor or supplier named below has been paid in accordance with subsection "d" of the Disadvantaged Business Enterprises clause, which is part of the contractor's contract with the City of Cleveland/Cleveland MPO."

1. ITB / RFP Number:
2. Project Description:
3. Subcontractor / Supplier Name:
4. Subcontractor / Supplier Payment Date:

If payment was not made, please explain:

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

This certification is for Cleveland MPO's information only and does not place any obligations on the part of Cleveland MPO with regard to any part, including but not limited to, any subcontractor and Contractor's surety.

## Attachment F

### Sub-Contracting Plan for Small Business Participation

#### Bidder/Proposer Information

Name of Firm: \_\_\_\_\_

Address of Firm: \_\_\_\_\_

Phone Number of Firm: \_\_\_\_\_

Name of Firm Representative: \_\_\_\_\_

Title of Firm Representative: \_\_\_\_\_

Signature of Firm Representative: \_\_\_\_\_

#### Small Business Subcontract Estimates

List each estimated subcontract for supplies or type of work, and estimated dollars for each.

| Supplies or Type of Work to be Subcontracted | Estimated Dollar Amount |
|----------------------------------------------|-------------------------|
| 1.                                           | \$                      |
| 2.                                           | \$                      |
| 3.                                           | \$                      |
| 4.                                           | \$                      |
| 5.                                           | \$                      |
| 6.                                           | \$                      |

If supplies or services are projected to be subcontracted to small businesses, but large businesses are subsequently substituted or the prime contractor self-performs the work, documentation of good faith efforts (see page 2, herein) to utilize small businesses must be provided the City of Cleveland Purchasing Department within 7 days of such substitution by the prime contractor, and prior to payment by the City to the contractor. The City's Purchasing Department, in coordination with the Cleveland MPO, will determine, within 7 days of receipt of contractor's good faith efforts, whether to approve the contractor's good faith efforts.

If good faith good faith efforts are not approved by the City of Cleveland, the contractor may appeal to the City Manager, in writing, within 7 days from notification of such non-approval, may provide documentation to support its appeal. The contractor may request to be heard in person, and such meeting will occur within 10 days of a request. The decision of the City Manager regarding approval or non-approval of good faith efforts shall be final.

If good faith efforts are not approved, the contractor must pay liquidated damages in the amount of 10% of the amount of substituted small business subcontract work to the City within 30 days.

## Evidence of Good Faith Efforts

## Methods Used to Solicit Small Business Participation for this Project

Check all that apply, and attach requested supporting documents to form.

- ☐ FAX (include a sample of the fax, and transmittal logs identifying each small business firm solicited based on each fax number, with clearly visible dates)
- ☐ Telephone (telephone log showing the name of each small business called, the telephone contact date, and brief, applicable notes about each call)
- ☐ Mail (include a sample letter and copies of letters which were returned as undeliverable)
- ☐ E-mail (include copy of E-mail sent and distribution list)
- ☐ Website address (if solicitation placed on website) and dates solicitation appeared on website
- ☐ Advertisement place in \_\_\_\_\_ on \_\_\_\_\_ (attach copy of ad which includes specific ITB/RFP and ad date)
- ☐ Small contract opportunities – bidder/proposer broke contract down into smaller units to facilitate small business participation (include list of smaller contract opportunities)
- ☐ Written notices (bidder/proposer provided written notice of subcontracting opportunity, including information about the plans, specifications, and requirements of the subcontract, in a manner reasonably calculated to inform small businesses)
- ☐ Sufficient time (bidder/proposer allowed sufficient time for small businesses to participate effectively)

| Small Business | Dollars<br>Small Business<br>Quoted | Type of Work Small<br>Business Quoted | Reason Small Business Not<br>Selected<br>(check as applicable)                                                                                       |
|----------------|-------------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.             | \$                                  |                                       | <input type="checkbox"/> Quote Too High<br><input type="checkbox"/> Quote Not Complete<br><input type="checkbox"/> Other (please attach explanation) |
| 2.             | \$                                  |                                       | <input type="checkbox"/> Quote Too High<br><input type="checkbox"/> Quote Not Complete<br><input type="checkbox"/> Other (please attach explanation) |
| 3.             | \$                                  |                                       | <input type="checkbox"/> Quote Too High<br><input type="checkbox"/> Quote Not Complete<br><input type="checkbox"/> Other (please attach explanation) |
| 4.             | \$                                  |                                       | <input type="checkbox"/> Quote Too High<br><input type="checkbox"/> Quote Not Complete<br><input type="checkbox"/> Other (please attach explanation) |
| 5.             | \$                                  |                                       | <input type="checkbox"/> Quote Too High<br><input type="checkbox"/> Quote Not Complete<br><input type="checkbox"/> Other (please attach explanation) |

Contractor will have information available to the City for review upon request, including copies of quotes, on the above small business quotes not selected.



## Attachment G

# INSURANCE CHECKLIST

**REQUIRED COVERAGE (marked by "x")****MINIMUM LIMITS**

- ☒ 1. Worker's Compensation (proprietor/partners/executive officers exclusion not allowed) ..... Statutory limits of Tennessee and Employer's Liability ..... \$100,000/accident, \$100,000/disease, \$500,000/disease policy limit
- ☒ 2. Commercial General Liability (including Premises/Operations) ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
- ☒ 3. Automobile Liability & Owned/Hired/Non-Owned Vehicles ..... \$500,000 BI/PD each accident, Uninsured Motorist
- ☐ 4. Independent Contractors ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
- ☐ 5. Products/Completed Operations ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
- ☐ 6. Contractual Liability ..... \$1,000,000 CSL BI/PD each occurrence, \$1 Million annual aggregate
- ☐ 7. Personal and Advertising Injury Liability ..... \$1,000,000 each offense, \$1 Million annual aggregate
- ☐ 8. Umbrella Liability ..... \$1 Million Bodily Injury, Property Damage and Personal Injury
- ☐ 9. Per Project Aggregate
- ☐ 10. Professional Liability
- ☒ a. Architects and Engineers ..... \$1 Million per occurrence/claim
- ☐ b. Asbestos Removal Liability ..... \$2 Million per occurrence/claim
- ☐ c. Medical Malpractice ..... \$1 Million per occurrence/claim
- ☐ d. Medical Professional Liability ..... \$1 Million per occurrence/claim
- ☒ 11. Miscellaneous E & O / Professional Liability ..... \$1 Million per occurrence/claim
- ☐ 12. Motor Carrier Act End. (MCS-90) ..... \$1 Million BI/PD each accident, Uninsured Motorist
- ☐ 13. Motor Cargo Insurance
- ☐ 14. Garage Liability ..... \$1 Million Bodily Injury, Property Damage per occurrence
- ☐ 15. Garagekeepers Liability ..... \$500,000 Comprehensive, \$500,000 Collision
- ☐ 16. Inland Marine-Bailee's Insurance ..... \$
- ☐ 17. Moving and Rigging Floater ..... Endorsement to CGL
- ☐ 18. Dishonesty Bond ..... \$
- ☐ 19. Builder's Risk/Installation Floater ..... Provide coverage in the full amount of contract
- ☐ 20. XCU Coverage ..... Endorsement to CGL
- ☒ 21. Carrier Rating shall be Best's Rating of B++V or better or its equivalent
- ☒ 22. Notice of cancellation, non-renewal or material change in coverage shall be provided to City at least **30 days** prior to action. Worker's Compensation and/or non-payment of premium - notification may be **10 days** prior to action.
- ☒ 23. The City of Cleveland shall be named as Additional Insured on all policies except Worker's Compensation, Auto and Professional Liability. **Per Acord 25 (2009/01), policies must be endorsed to incl. on-going & completed operations; please submit copy of endorsement.** (Cert. Holder: City of Cleveland, Attn: Melinda Carroll, Purchasing, P.O. Box 1519, Cleveland, TN 37364-1519. Email: mcarroll@clevelandtn.gov)
- ☒ 24. Certificate of Insurance shall show project number or other contract identifier used by the City.
- ☐ 25. OTHER INSURANCE REQUIRED: \_\_\_\_\_

**INSURANCE AGENT'S STATEMENT:**

I have reviewed the above requirements with the bidder named below. The bidder has coverage with this agency for all of the areas marked with the exception of the following numbers:

Comments: \_\_\_\_\_

Is Professional Liability excluded under General Liability? Yes \_\_\_\_\_ No \_\_\_\_\_

Is Contractual Liability excluded under Comm. General Liability? Yes \_\_\_\_\_ No \_\_\_\_\_

Is Independent Contractors excluded under Comm. General Liability? Yes \_\_\_\_\_ No \_\_\_\_\_

Carrier ratings: Insurer A \_\_\_\_\_; Insurer B \_\_\_\_\_; Insurer C \_\_\_\_\_; Insurer D \_\_\_\_\_

AGENCY NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACTOR'S STATEMENT:**

I have reviewed the above requirements with my insurance agent(s) and, if awarded a contract, will provide all coverage marked.

CONTRACTOR'S NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

Date: \_\_\_\_\_

Bid Number: \_\_\_\_\_

Bid or Project Name: \_\_\_\_\_

**This form and the General Contract Form shall be signed and returned with the Solicitation package. The Certificate of Insurance must be provided to Purchasing prior to contract award.**



## Attachment H

### GENERAL CONTRACT FORM

The General Contract Form is included in every solicitation requiring insurance. The general requirements of the contract form are supplemented by items checked on the **Insurance Checklist that identify specific requirements for the bid or project.**

#### INSURANCE

Review this section carefully with your insurance agent or broker prior to submitting a bid or proposal. See Insurance Checklist (part of the Bid Forms) for specific coverage applicable to this contract. The term “Contract” as used in this section shall mean the Agreement covering the work that is entered into between the City of Cleveland, Tennessee and the Contractor.

#### **1. General Insurance Requirements:**

**1.1** The Contractor shall not start work under this contract until the Contractor has obtained at its own expense all of the insurance called for hereunder and such insurance has been approved by the City; nor shall the Contractor allow any subcontractor to start work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by the Contractor. Approval of insurance required of the Contractor will be granted only after submission to the Director of Purchasing of original, signed Certificate(s) of Insurance, General Contract Form, and Insurance Checklist or, alternately, at the City’s request, certified copies of the required insurance policies.

**1.2** No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Contractor, or the surety, or its bond, from any liability or obligation imposed upon either or both of them by the provisions of the Contract Documents.

**1.3 The City of Cleveland (including its elected and appointed officials, agents, and employees) is to be named as an additional insured under all coverage except Worker’s Compensation, Automobile Liability, and Professional Liability and the Certificate of Insurance or the certified policy, if requested, must so state.** Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees. The following definition of the term “City” applies to all policies issued under the contract:

“The City of Cleveland, Tennessee together with all of its various departments, bureaus, and agencies, as well as any affiliated or subsidiary board, committee, or authority, including but not limited to the City of Cleveland Public School System.”

**1.4** The contractor shall provide insurance as specified in the Insurance Checklist contained in this document.

**1.5** The Contractor covenants to save, defend, hold harmless and indemnify the City of Cleveland, Tennessee together with its various departments, elected or appointed officials, employees, officers, counsel, agents, and any and all other persons or entities acting on

behalf of the same (collectively the City) from and against any and all claims of any sort based upon any theory of liability whatsoever, for any and all harm, loss, damage, injury, cost (including court cost and attorney fees) charges, or other liability of any nature whatsoever, however caused, resulting from or arising out of or in any way connected with the contractors performance or non-performance of the terms of the contract documents or its obligations under the contract based upon any theory of liability whatsoever, including claims brought by third persons, and further covenants to discharge all of the aforesaid persons and entities and forever hold them harmless from the same. The foregoing obligation to indemnify and defend shall continue in full force and effect after the aforesaid contractor completes all of the work required under the contract, until such time as the applicable statutes of limitation or repose have expired.

**1.6** The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by the City.

**1.7** Insurance coverage required in these specifications shall be in force throughout the Contract Term. If the Contractor fails to provide acceptable evidence of current insurance within ten days of written notice at any time during the Contract Term, the City shall have absolute right to terminate the Contract without any further obligation to the Contractor and the Contractor shall be liable to the City for the entire additional cost of procuring performance by another vendor and the cost of performing the incomplete portion of the Contract at time of termination. **Contractor** is required to provide the City with notice of cancellation, non-renewal, or material change in coverage at least thirty (30) days prior to cancellation, non-renewal, or material change in coverage.”

**1.8** Contractual and other liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the City from supervising or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.

**1.9** Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City. The Contractor shall be as fully responsible to the City for acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by the Contractor.

**1.10** Precaution shall be exercised by the Contractor at all times for the protection of persons (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service at all times by the Contractor and its subcontractors during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.

**1.11** If a Contractor can not meet the insurance requirements contained in a bid, proposal, or project description, alternate insurance coverage may be considered. Written requests for

consideration of alternate coverage must be received by the Director of Purchasing at least ten working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternate coverage, the specified coverage will be required to be submitted. If the City permits alternate coverage, an amendment to the Insurance Requirement will be prepared and distributed prior to the time and date set for receipt of bids or proposals.

**1.12** All required insurance coverage must be acquired from insurers authorized to do business in the State of Tennessee, and acceptable to the City. The insurers must also have policyholders' rating of "B++" or better, and a financial size of "Class V" or better in the latest edition of Best's Insurance Reports, unless the City grants specific approval for an exception in the same manner as described in 1.11 above.

**1.13** The City may consider deductible amounts as part of its review of financial stability. The Contractor shall assume all deductibles.

## **2. Contractor's Insurance – Occurrence Basis:**

**2.1** The Contractor shall purchase the following insurance coverage, including the terms, provisions and limits shown in the Checklist:

- **Commercial General Liability** – The Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
  - i. General aggregate limit is to apply per project;
  - ii. Premises/Operations;
  - iii. Action of Independent Contractors;
  - iv. Contractual Liability including protection for the Contractor from claims arising out of liability assumed under this contract;
  - v. Personal Injury Liability including coverage for offenses related to employment;
  - vi. Explosion, Collapse, or Underground (XCU) hazards.
- **Professional Liability/Miscellaneous Errors and Omissions** insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render, professional services under the contract, in the amount shown in the Checklist.
- **Business Automobile Liability** including coverage for any owned, hired, or non-owned motor vehicles, Uninsured Motorists insurance, and Automobile Contractual Liability.
- **Worker's Compensation** – statutory benefits as required by the State of Tennessee, or other laws as required by labor union agreements, including standard Other States coverage; Employers' Liability coverage.

## **3. Commercial General or other Liability Insurance – Claims-made Basis:**

If Commercial General or other liability insurance purchased by the Contractor has been issued on a claims-made basis, the Contractor must comply with the following additional

conditions. The limits of liability and the extensions to be included as described in the Checklist remain the same. The Contractor must either:

- i. Agree to provide certificates of insurance evidencing the above coverage for a period of three years for Professional Liability; two years for CGL and other Liability, after final payment for the contract. Such certificates shall evidence a retroactive date, no later than the beginning of the Contractors or subcontractors' work under this contract, or
- ii. Purchase an extended (minimum three years for Professional Liability; two years for CGL and other Liability) reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

#### **4. Alternative Coverage (Self Insurance)**

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required, provided that the alternative coverage is acceptable to the City.

#### **5. Limits of Liability Coverage**

Specific limits of liability coverage on the Insurance Checklist may be adjusted according to project risk if the adjustment is deemed appropriate and the amended amount is approved by the City Manager.

#### **6. Verification of Compliance**

I have read this General Contract Form and agree to all the terms and conditions contained therein.

Contractor's Name: \_\_\_\_\_

EIN or SSN: \_\_\_\_\_

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**This form and the Insurance Checklist must be completed and returned with Certificate of Insurance, as specified, prior to contract award.**

## Attachment I

### **REQUIREMENTS FOR BIDS, REQUESTS FOR PROPOSALS, AND CONTRACTS BETWEEN THE CITY OF CLEVELAND AND OTHER PARTIES**

The City of Cleveland has established the following requirements for use in all bids and contracts between the City and any other person or entity. The following list is mandatory and modifies any bid, contract, or request for proposal, or conditions applicable to, signed by, or let by the City, notwithstanding anything contained in any particular conditions, contract, request for proposal, or bid to the contrary.

In general, the following provisions apply to all such contracts, bids, requests for proposals, contracts requiring bids, and bids containing contracts:

1. The City of Cleveland shall not answer to any contracting party for the furnishing of public records to a person requesting such in accordance with Tennessee law.
2. The City, while it may designate in writing a representative on a particular project, shall only be bound by a majority vote of the City Council or by the limited authority delegated to the City Manager pursuant to City Ordinance. No personal representative of the City assigned to a particular project may bind it in excess of the dollar amounts granted to the City Manager by Ordinance, and no personal representative assigned to a particular project may bind the City for an amount equal to or less than the dollar amounts granted to the City Manager by Ordinance without the City Manager's approval.
3. The City shall not in any event waive or limit any claims for damages including but not limited to consequential damages in any contract for any reason or purpose.
4. No decision of an architect, engineer, or personal representative of the City shall be final and binding on the City, unless the City so agrees in any dispute with any party including but not limited to an architect, a contractor, a subcontractor, an engineer, etc. If the City agrees to be bound pertaining to a dispute, then the monetary limits contained in the City's ordinances regarding the authority of the City Manager shall prevail, and any amounts exceeding the authority of the City Manager shall be referred to the City Council for their consideration.
5. The City shall not participate in any mediation or arbitration regarding any agreement to which it is a party, and all matters left unresolved between the City and any other party, person, or entity shall be resolved in a court of competent jurisdiction in either Bradley County, Tennessee, or in Federal District Court in Greeneville, Tennessee.
6. No party or other entity shall file a lien of any nature whatsoever against City property, real, personal, or mixed, no matter where that property is located. Should a party or entity contracting with the City or acting as a subcontractor or subsubcontractor

file a lien against any property, real, personal, or mixed, owned by the City, then that party or entity shall take immediate steps at its own cost and expense to remove said lien, or the City shall take such steps as it deems necessary and hold the other party or entity liable for any costs and attorneys' fees associated with the lifting of said lien.

7. The City shall exercise its sole discretion before agreeing to any assignments of any contracts or subcontracts regarding any project in which the City is involved. No contract with the City shall be assignable without the City's sole, discretionary, absolute consent.

8. The City shall not be required to supply any information regarding its title to any property in which it has an interest for any purposes regarding the filing of liens.

9. The City shall not waive any claims it has in the making of final payment in any project in which it is involved. The City shall have the right to terminate any agreement to which this document is attached at any time in its sole discretion without cause. In the event the City terminates without cause any agreement to which this document is attached, then in such event the City shall be liable only for the actual work and costs that have accrued at or before the date of the City's termination. In no event shall the City be liable for lost profits, consequential damages or incidental damages in the event it terminates a contract without cause.

10. Except to the extent allowed by law, the City shall not indemnify and hold harmless any other party, entity, person, their agents, employees, or anyone else in the world for any reason whatsoever.

11. The City shall not waive the rights of subrogation of its insurers or itself for any purpose whatsoever, and the City shall not cause any such endorsements to be placed on any policies to which it is a party.

12. Unless the City elects otherwise, the City shall not provide any "builders' risk" or an "all-risk" or equivalent policy for any reason whatsoever for any project in which the City has an interest, and the contractor or other such party shall assume this responsibility. That builder's risk policy provided by the contractor or other such interested party shall name the City as an additional insured. The City shall not provide boiler and machinery insurance, but shall require such insurance as applicable, depending on the parameters of whatever project is involved. The cost of boiler and machinery insurance shall be borne by the appropriate contractor, subcontractor, or other interested party. The City shall not insure the interests of any other person or entity, nor shall the City add any other person or entity as an additional insured to any of its policies.

13. The City shall not waive any rights regarding the loss of use of the City's property.

14. As to acts or failures to act or any causes of action by any party to a contract, whether that party be the architect, owner, contractor, City, etc., a cause of action shall accrue according to Tennessee law. No contract provision shall shorten the statutes of limitations, statutes of repose, or the accrual of any causes of action which the City



might have against another party or entity. No contract provision shall waive any warranties, express or implied, nor shall any contract limit the standard of care for any particular service or undertaking to that of the locality where those services or undertakings are performed.

15. Any interest to be paid by the City of Cleveland for late payments shall be at the rate of interest at which the City pays on its most recently issued bonds.

16. The City reserves to itself the right to approve the use of any tests, including but not limited to any borings, test pits, geotechnical work, environmental tests, and the like in its own sole discretion. All design professionals, consultants, subcontractors, or the like shall be duly licensed in the State of Tennessee, if licensure in the State of Tennessee is required for the work to be performed by such design professional, consultants, or subcontractors.

17. Notwithstanding any applicable choice of law or conflict of law provisions or decisions, the law of the State of Tennessee shall govern all contracts to which this document is attached.

18. The City of Cleveland shall not provide any legal advice, legal services, surveys, or procure the same for any other party.

19. Upon payment for services as rendered, all design documents and all instruments of service created by design professionals, including but not limited to architects, landscape architects, engineers, etc., shall become the property of the City of Cleveland, Tennessee. The City of Cleveland shall be allowed to use all design documents and instruments of service, including but not limited to bid drawings, shop drawings, reports, specifications, cost estimates, schematic designs, construction designs, and the like for future additions or alterations to the current project or for use in other projects. Any use of the aforementioned designs and construction documents shall be at City's sole risk and without liability to the design professional. The design professional's name and seal will be removed from all such design documents prior to the City's use thereof.

20. No person or entity shall respond to a request for bid or request for proposal with any terms or conditions that might change, alter, amend, or differ with the specifications, terms, or conditions originally provided by the City in its initial request for bids or proposals.

21. The City, as the owner of real property that is the subject of or in any way connected to any bid, request for proposal, or contract, hereby grants to the successful bidder/proposer/contractor the general management of the real property during the time that work is being performed, and the City agrees to transfer information specified in OSHA regulations at 29 CFR § 1926.1203(h)(1), so that TOSHA/OSHA shall treat the successful bidder/proposer/contractor as the host employer when working in confined spaces. This paragraph applies only to those areas where the successful

bidder/proposer/contractor has access to and performs work within confined spaces as defined in federal OSHA regulations. The successful bidder shall comply with all federal OSHA and state TOSHA regulations, including those regarding confined spaces.



Revised TDOT Sept 2012

## Attachment J

### CITY OF CLEVELAND, TENNESSEE BID/PROPOSAL GENERAL TERMS AND CONDITIONS (Read Carefully)

**1. PREPARATION OF BIDS/RFP'S** Only bids submitted on forms furnished by the city will be considered. Bids on company letterhead or quotation sheets will be judged nonresponsive. TELEPHONE OR FACSIMILE BIDS WILL NOT BE ACCEPTED. Bids will be sealed in an envelope. **Paper bids shall be sealed in an envelope.** No bid received after closing time shall be considered. The official time for paper bids will be that of the date and time clock in the Purchasing Department. For electronic bids the official time is that of the date and time clock in the Purchasing Department. Late bids will not be accepted. The City of Cleveland shall not be responsible for technical difficulties experienced by vendors trying to register or submit their bid/rfp response electronically less than one hour prior to the bid/rfp opening time. If not offering a bid/proposal response, the vendor is encouraged to complete the "Statement of Decline" form and return prior to solicitation opening.

**2. SIGNATURE ON BIDS** When submitting a bid, other than electronically, the bid form must contain the full name and address of the company and be signed in Ink by a person authorized to bind that company to a contract. Submission of an electronic solicitation constitutes acceptance of all terms and conditions. Unsigned paper bids will not be considered, read or tabulated. They may not be signed during or after the bid opening, even if a representative is present.

**3. PRICING** All pricing must appear in the spaces provided on the city's form (if applicable) and be in ink. Changes or corrections by the bidder/proposer must be initialed in ink by the person signing. No corrections may be made in pencil. Unit prices will prevail in case of an extension error. The City will correct math computation errors (unit price & totals). No bid may be altered or amended after bid opening time. Obvious mistakes will be given special consideration upon receipt of written request and full disclosure or evidence regarding pricing error.

**4. BID/RFP OPENINGS** Bids/RFP's (paper & electronic) will be read aloud at the specified date and time as stated in the document. All openings are public meetings. All bidders/proposers and interested persons are invited to attend. The City reserves the right to postpone any bid/rfp opening under circumstances warranting such action , including but not limited to instances when the City receives fewer than two responses.

**5. EXAMINATION OF BIDS/RFP'S** Bids/RFP's and associated documents will be closed for review and inspection during the evaluation period prior to award.

**6. COOPERATIVE PURCHASING:** Bidders/Proposers are to indicate whether it is permissible for other governments in Tennessee to purchase these items or services at the same price. Freight charges can be adjusted to reflect differences in delivery costs.

**7. BID TABULATIONS/RFP RESPONSES** Bid tabulations and RFP respondent's lists will be posted and available no later than the next business day on our website: <http://www.clevelandtn.gov/index.aspx?nid=133>

**8. MULTIPLE ITEM BIDS** The City will determine the successful bidder(s) on the basis of the total of all items.

**9. BID/RFP EVALUATION** Bids/RFP's will be evaluated according to the criteria set forth in the document with the degree of importance determined by the City.

**10. ACCEPTANCE, REJECTION AND POSTPONEMENT** Issuance of a bid/rfp does not commit the City to make an award. The City reserves the right to postpone or reject any or all bids/rfp 's, to waive informalities and to accept the bid/rfp judged to be in the best interest of the City.

**11. AWARD** An award, if made, shall be to the lowest responsible, responsive bidder(s) or best proposal meeting quality and performance standards as described in the solicitation documents and whose bid/rfp is determined to be in the best interest of the City.

**12. AWARD PERIOD** The City shall have 60 days to issue a contract. Any contract past that period must be mutually agreed upon by both parties.

**13. FOB POINT** All prices quoted shall be FOB delivered to the using department, City of Cleveland, TN unless otherwise stated in the solicitation document. Risk of loss and/or damage shall be upon the Seller until such time as the goods have been physically delivered and accepted by the City.

**14. DISCOUNT AND PAYMENT** Payment terms are Net 30 following receipt of the material or service and a correct invoice unless otherwise stated in the solicitation document. Discounts for prompt payment will not be considered in the bid evaluation for award. Partial payment will be allowed only if addressed in the solicitation.

**15. TAXES** The City is exempt from Federal excise tax, State, and city sales tax. Contractors are not exempt from the use tax on materials and supplies used in the production of an item or in the performance of a repair or construction contract. Tax exemption certificates will be furnished upon request.

**16. TERM OF CONTRACT** Unless otherwise stated, the City reserves the right to purchase like items at the same contract price for a period of one year from the award

date subject to agreement of both parties. The City may cancel any contract for cause following written notification of intent.

**17. ORAL INSTRUCTIONS** No oral interpretations or instructions given by any city employee or any other person shall apply. Changes relative to any solicitation will be in writing to all known interested parties and posted on the City's website. These addendums will originate either from the Purchasing Department or the issuing Architect.

**18. DELIVERY** Delivery/completion schedule must be clearly identified and realistically stated, as this may be a determining factor in the award.

**19. SAFETY STANDARDS** All manufactured items and fabricated assemblies shall comply with applicable requirements of OSHA and any related standards thereto.

**20. BRAND NAMES** By referencing a brand name or equal, the City intends to establish a minimum level of quality by which alternate offers can be judged. If an alternate is offered, the vendor must include complete descriptive literature and specifications that clearly describe the item and how it differs from the referenced item. Vendor reference to literature previously submitted will not satisfy this provision. Unless specified otherwise, it is understood that the referenced product will be furnished. The City alone will determine whether an alternate is equivalent and meets the standards of quality and performance for the City's use. A sample or demonstration may be required at the expense of the vendor.

**21. EQUAL OPPORTUNITY** It is the policy of the City of Cleveland to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21; related statutes and regulations to that end that no person shall be excluded from participation in or be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or any other funding source on the grounds of race, color, sex, national origin, or ancestry. By virtue of submitting a response to this solicitation, vendors agree to comply with the same non-discrimination policy.

**22. SAMPLES** Samples will be furnished at no charge to the City. They will remain in the Purchasing Department for testing and evaluation until an award is made. Vendors are responsible for picking up their samples within two (2) weeks after the award. Samples not collected after that time shall become the property of the City. Samples from the successful vendor will be held until delivery is received and accepted as being equal to the sample.

**23. CONDITION STANDARDS** It is understood and agreed that any item offered or shipped as a result of this solicitation shall be new and unused and the manufacturer's latest model unless otherwise called for in the solicitation.

**24. INSPECTION** All supplies or materials purchased as a result of this solicitation are subject to inspection and rejection by the City. Rejected materials will be returned at the vendor's expense.

**25. PARTS AND SERVICE** The successful vendor must be able to provide adequate parts and service for all items awarded. Service location and ability to perform may be a consideration in the award.

**26. WARRANTY** Unless otherwise specified by the City, all items shall be guaranteed for a minimum period of one (1) year against defects in material and workmanship.

**27. LICENSES, FEES, PERMITS** The contractor is responsible for furnishing the proper licenses, fees, and permits required by law to do business with the City of Cleveland in completion of the project. All work shall be done in accordance with the latest building codes, state and federal laws relative to public works contracts.

**28. INSURANCE** The contractor shall maintain, at his expense, such insurance as will protect him from claims under Worker's Compensation Act and from claims of damages because of bodily injury, including death and damage to the property of others and claims for damages which may arise during operations under this contract whether such operations be by himself or by any subcontractor of anyone directly or indirectly employed by either of them. Any required insurances shall be maintained for the term of the contract.

**29. INDEMNIFICATION** The vendor shall guarantee and certify by submitting a response to this solicitation that if successful, they shall indemnify and defend the City against any and all claims or legal actions arising as a result of their performance of the contract, whether or not such claims relate to damages or alleged damages sustained by physical injury to contractors personnel, subcontractors, city employees or other persons, or against any lawsuits arising from alleged or actual patent infringements, and shall hold the City, its various departments, employees, and any and all persons or entities acting on its behalf harmless from the same.

**30. DEFAULT** In case of contractor default or failure to provide material or service according to the solicitations, the City may cancel this contract and acquire from another source and may recover any excess cost by (1) invoice; (2) deduction from an unpaid balance due; (3) collection against the bid and/or performance bond; or (4) a combination of the aforementioned remedies or other remedies provided by law. All costs associated with default will be borne by the contractor. The City reserves the right to remove a company in default from the active vendor list for a time period to be determined by the Director of Purchasing.

**31. PENALTIES** Vendors may be removed from our active vendor system for any of the following:

Failure to respond to three consecutive solicitations

Failure to meet delivery requirements

Failure to furnish items as a result of a solicitation

Failure to provide service or material as a result of the award

Offers of gratuities or favors to any City employee

**32. NON-COLLUSION AGREEMENT** By submitting this solicitation, the agent representing all officers, partners, owners, representatives, employees or interested parties of the vendor's firm certifies to the best of his/her knowledge and belief this bid/proposal to the City of Cleveland, Tennessee has not been prepared in collusion with any other seller, proprietor, or manufacturer of similar products or services. The agent also certifies that the prices, terms and conditions of said bid/proposal have been arrived at independently and have not been communicated by the submitter, nor by any of the aforementioned firm associate to any other seller, proprietor, or manufacturer of similar products or services and will not be communicated prior to the official opening of said solicitation. The agent further states that no official or employee of the City of Cleveland has promised any personal, financial or other beneficial interest, either directly or indirectly, in order to influence award of this solicitation.

## Attachment K

### ACKNOWLEDGEMENT OF REQUIREMENTS FOR BIDS, REQUESTS FOR PROPOSALS, AND CONTRACTS BETWEEN THE CITY OF CLEVELAND AND OTHER PARTIES AND THE REQUIREMENTS OF IRAN DIVESTMENT ACT

Name of Project: \_\_\_\_\_

Bid/RFP Number or Other Identifier: \_\_\_\_\_

Name of Bidder/Proposer: \_\_\_\_\_

The Undersigned hereby acknowledges that the Bidder/Proposer has carefully reviewed the Requirements For Bids, Requests for Proposals, and Contracts between the City of Cleveland and Other Parties and the requirements of the Iran Divestment Act (Sealed Solicitations General Terms & Conditions #20), and understands that these documents are considered part of the Contract Documents and all Bids/Proposals shall be conditioned by the document. By submission of this bid/proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid/proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder/proposer is not on the Iran investment activities list created pursuant to T.C.A. § 12-12-106.

Name of and Title of Signer  
(Print or Type) \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**COMPLETE AND RETURN WITH SOLICITATION PACKAGE**

## Attachment L

### STATEMENT OF SOLICITATION DECLINE

#### City of Cleveland, Tennessee

NOTE: If you do not intend to respond to this solicitation, please complete and return this form on or before the stated deadline to Purchasing Department, P. O. Box 1519, Cleveland, TN 37364-1519 or via e-mail or fax: [mcarroll@clevelandtn.gov](mailto:mcarroll@clevelandtn.gov) ; 423-559-3337.

We value your feedback and ask that you complete the following:

Solicitation No. or other identifier: \_\_\_\_\_

Solicitation Name: \_\_\_\_\_

We, the undersigned, decline to submit on the above bid/proposal for the following reason(s):

\_\_\_\_\_ Insufficient time to adequately prepare a response

\_\_\_\_\_ Our company does not offer this product or service. Remove us from the vendor list

\_\_\_\_\_ Our schedule will not permit us to perform in a timely manner

\_\_\_\_\_ We are unable to meet bond requirements

\_\_\_\_\_ We are unable to meet insurance requirements

\_\_\_\_\_ We are unable to offer comparable product or service

\_\_\_\_\_ We are unable to meet the specifications (explain below)

\_\_\_\_\_  
\_\_\_\_\_

We understand that if this statement is not completed and returned, our company may be deleted from the City's solicitation list for this commodity or service.

Company name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_